

May 9, 2001

CERTIFIED MAIL - Return Receipt Requested
CERTIFIED NO.

DECISION

Pacific Northwest Aggregates
Mr. Chuck Steinwandel
4315 S.E. McLoughlin Blvd.
Portland, OR 97202

Avery Sand and Gravel Mine
Mining and Reclamation Plan
BIA Permits 3-2-0085-9924 and
3-2-0066-9909
Sand & Gravel Mining

APPROVAL OF THE AVERY MINE - MINING AND RECLAMATION PLAN

This decision conveys the results of the Bureau of Land Management (BLM's) completeness review of Pacific Northwest Aggregate's (PNA) April 30, 2001, Avery Sand and Gravel Pit Mining-Reclamation Plan (Plan). The submittal is for mining sand and gravel resources from Indian Allotments Vancouver (V)-179 and V-179A. Based on this review, BLM finds that the aforementioned document meets the requirements set forth in 43 CFR 3592.1 (Operating Plans) and is hereby approved subject to applicable regulations at 25 CFR 211 and 216, and 43 CFR 3590, and to the following "Conditions of Approval" (COA). Final approval of this decision is contingent upon PNA signing and returning the statement of agreement at the end of the COA's. Please sign an original and send it back to this office.

The requirement for PNA to accurately segregate and account for production from the subject BIA permits/leases, as well as the third permit located immediately to the west, is of critical importance to ensure that accurate royalty payments are made to each mineral owner of the separate tracts. Based upon these circumstances, no commingling of any materials will be allowed under this plan approval decision.

Conditions of Approval (COA)

1. PNA is responsible for obtaining all local, State, and Federal permits, leases, rights-of-way, licenses, reviews, etc., required to implement this decision, and for providing copies of same to BLM prior to conducting mining operations under the approved Plan. Copies of the Plan and these authorizations will be maintained at the mine site.
2. The Plan currently requires that benches be cut (created) at 50-foot slope intervals in the reclaimed 2:1 (H:V) slopes to facilitate reclamation and curtail slope or rill erosion. A Plan modification shall be implemented should additional slope stabilization be required.

3. If current methods of dust control described in the Plan are not sufficient to control dust during operations and/or reclamation, PNA shall initiate, after consultation with BLM, such additional mitigation measures as are necessary including, but not limited to mulching, water sprinklers, wind fences, trenches, and erosion matting, etc.
4. Materials (i.e., run of mine, processed, overburden, topsoil, etc.) from separate permits/leases shall not be commingled. Distinctly separate, identifiable, and temporary surge piles at feed hoppers shall be allowed on V-179 for material that is mined from other site(s) while being trans-shipped across V-179. No commingling means that there shall be no combining or mixing of any materials mined from the different permits/leases from the time materials are mined in-place through the final loading phase onto highway trucks, individual barges, etc. that transport run of mine or processed materials away from PNA's overall Avery sand and gravel operation.
5. Monthly, PNA shall prepare and submit to the BLM, accounting reports tabulating the tonnage of mine-run sand, gravel, rock, other resources produced from the individual permit/lease sites, including processed materials, utilizing belt and truck scales, supplemented by displacement tonnage for all barge transported materials.
6. Material loaded onto any given barge for shipment shall be from one permit/lease only (i.e., V-179, V-179A or V-194). If a barge shipment pushed by a single tug includes more than one barge, each barge shall be separately accounted for according to the permit/lease of origin.
7. Monthly, PNA shall provide BLM with the following information related to materials shipped on each individual barge.

An example showing barge shipment information to be included in the monthly submittals is shown on the table below:

EXAMPLE BARGE SHIPMENT INFORMATION						
Date Barge Shipment Passed Through The Dalles Lock ^a	Name of Tug/Barge Company ^b	Name of Tug ^c	Barge Name(s) or Designation(s) ^d	Individual Barge Belt Scale Tonnages ^e	Individual Barge Displacement Tonnage ^f	Permit/ Lease of Source Origin ^g
9-6-2000	Bernert Barge Lines	Mary B	XXX	5,255	5,439	3-2-0085-9924
9-6-2000	Bernert Barge Lines	Mary B	XXX	6,347	6,172	3-2-0085-9924
9-6-2000	Bernert Barge Lines	Mary B	XXX	4,586	4,710	3-2-0085-9924
Total Shipment Tonnages:				16,188	16,321	
Note: The above shipment was composed of 3 barges.						
Table Footnotes: a - Date and approximate time tug passes through The Dalles Dam Lock. b - Name of barge company. c - Name of tug. d - Number of barges in each shipment, and each individual barge name or designation. e - Belt scale tonnage loaded onto each individual barge. f - Displacement tonnage as measured at The Dalles Dam navigation lock. g - BIA permit/lease number from which material was mined.						

8. Monthly, PNA shall provide BLM with all of the individual invoices submitted by the Barge Company(s) for each barge shipment.
9. Within 90 days of the date this Plan is approved, PNA shall have all scales used to weigh mined material for royalty purposes calibrated by a Washington State Registered Scale Technician. The permittee shall ensure that subsequent scale calibrations take place annually by a Washington State Registered Scale Technician. The permittee shall notify BLM two weeks in advance of the scale calibration and shall provide BLM with copies of all scale calibrations.
10. Within 30 days of the date this Plan is effective, PNA shall provide an Oil Spill Prevention, Control, and Countermeasures Plan that reflects onsite operations.
11. In compliance with 25 CFR 216.9, an annual operations report shall be submitted by the PNA within 30 days after the end of each calendar year (i.e., no later than February 1 of the year following the reporting year) to the BIA Yakama Agency and to the BLM.
12. PNA shall maintain the existing ground and aerial survey control points, and shall periodically report any changes to BLM as a result of operations. All Plan Section 3.12 annual aerial photographs will be suitable for high quality photogrammetric volume determinations. Technical information required by an independent third party for volumetric determinations shall be maintained with the photographs, including a current camera calibration test report by the U.S. Geological Survey Calibration Laboratory. Prior to abandonment or cessation of mining

operations, a final set of aerial photographs will be taken and a mine closure volume determination shall be made by PNA and provided to BLM.

13. Provide BLM with a map(s) and volume calculations of all inventoried stockpiles (topsoil, overburden, gravel, etc.) located on leases/permits held by PNA as of the date at the end of the royalty reporting period for that calendar year. The map(s) shall have a scale that is suitable to verify surveyed volumes and all inventoried stockpiles shall be identified by type(s) of material and lease/permit number of origin. PNA shall provide BLM with the stockpile location map(s) and volumetric calculations within 30 days after the end of each calendar year (i.e., no later than February 1 of the year following the reporting year).
14. All topsoil/overburden that has been removed and placed/stored on another parcel other than the original BIA lease/ permit must be surveyed, mapped and volume calculated. Prior to cessation or abandonment, PNA shall redistribute that material back to the original BIA lease/permit.

I agree to comply with all of the above listed conditions of approval:

A. Charles Steinwandel, Pacific Northwest Aggregates

Date

National Environmental Policy Act (NEPA) Compliance Requirements

The BLM, Wenatchee Field Office, and the Bureau of Indian Affairs (BIA), Yakama Agency Office have completed a review of an Environmental Assessment (EA), prepared by Halstead GeoNumerics (consultant) to determine the scope of impacts associated with PNA's proposal to continue and expand mining and to reclaim a sand and gravel operations on Indian Allotments V-179 and V-179A. The BLM and BIA have jointly issued a Finding of No Significant Impact (FONSI) on this proposal. Therefore, the proposed action is not considered a major Federal action requiring an Environmental Impact Statement (EIS).

Limitations and Modifications

This decision pertains specifically to BIA permits/leases 3-2-0085-9924 (V-179) and 3-2-0066-9909 (V-179A). Consistent with the stated responsibilities of the authorized office regarding operating plans at 43 CFR 3590.2 and 3592.1, BLM shall require appropriate modification of the Plan if at any time it becomes evident through inspection, monitoring, and/or consultation with other concerned agencies and affected interests that conditions warrant Plan modification, and/or unforeseen impacts are resulting, including those to adjoining lands, residences, highways, the Columbia River, and/or physical or biological environmental resources.

Implementation

This mining plan decision will become effective 30 days after receipt of this decision, per certified delivery. Pacific Northwest Aggregates is responsible for obtaining all applicable local, State or Federal permits, leases, rights-of-way, licenses, reviews, etc., necessary to implement this decision.

Administrative Appeal Procedures

Any party to the case who is adversely affected by the decision of BLM may appeal this decision directly to the Interior Board of Land Appeals, Office of the Secretary, in accordance with the regulations contained in 43 CFR Part 4. If you decide to appeal this decision, your notice of appeal must be filed at the following addresses within 30 days of receipt of this decision, per certified delivery.

District Manager
Spokane District Office
Bureau of Land Management
1103 N. Fancher
Spokane, WA 99212

and with:

Interior Board of Land Appeals
Office of Hearings and Appeals
4015 Wilson Blvd.
Arlington, VA, 22203

and with the:

Office of the Regional Solicitor
Department of Interior
500 N.E. Multnomah Street, Suite 607
Portland, OR 97232

Standards for Obtaining a Stay

A party wishing to suspend the effectiveness of the decision during the time the appeal is reviewed must petition for such a stay at the time the appeal is filed and must include that petition with the filings with the Bureau of Land Management District Office, the Interior Board of Land Appeals, and the Office of the Regional Solicitor of the Department of Interior.

A petition for a stay of this decision is required to show sufficient justification based on the standards listed below. If a stay is requested, the proponent of the stay has the burden of showing that the decision appealed is in error and that the stay should be granted. Except as otherwise provided by law or other pertinent regulation, a petition for a stay of a decision pending appeal shall show sufficient justification based on the following standards:

- Relative harm to the parties if the stay is granted or denied;
- Likelihood of the appellant's success on the merits;

- Likelihood of immediate and irreparable harm if the stay is not granted; and,
- Whether the public interest favors granting a stay.

/s/ Gary Yeager, acting for
 Joseph K. Buesing
 District Manager
 Spokane District Office

May 9, 2001
 Date

cc:

Casey Barney, allottee
 Reuben Bending, Yakama Agency
 Terry Berkompas, Yakama Agency
 R. Wayne Bjur, Attorney at Law
 Jim Fisher, BLM, Wenatchee
 Dan Hack, Halstead GeoNumetrics
 Eric Hoffman, BLM, OSO, Portland
 Clarence Holford, Yakama Agency
 Shirley Iman, allottee
 Jim Lebret, BIA Northwest Regional Office
 Pat Oshie, Oshie and Spurgeon, Attorneys at Law
 Arthur Sanchey, allottee
 Denny Seymour, BLM, OSO, Portland
 Stanley Speaks, BIA Northwest Regional Office
 Jason Umtuch, allottee